

## **REDACTED DOCUMENTS RELATED TO DOCKET 7948**

### **7948 - Plaintiffs' Controverting Statement of Facts in Opposition to Bard's Motion for Partial Summary Judgement as to Carol Kruse**

#### **REDACTED EXHIBITS:**

- Exhibit 1: Selected Medical Records of Carol Kruse;**
- Exhibit 2: Excerpts of 4/3/17 Deposition of Mark Hutchins, M.D.;**
- Exhibit 3: Excerpts of 2/20/17 Deposition of Carol Kruse;**
- Exhibit 4: Declaration of Carol D. Kruse dated 9/27/17;**
- Exhibit 5: Excerpts of 2/20/17 Deposition of Diane Biere;**
- Exhibit 6: Expert Report of Christopher S. Morris, M.D.;**
- Exhibit 7: Excerpts of 4/4/17 Deposition of Shanon Smith, M.D.;**
- Exhibit 8: Excerpts of 7/21/17 Deposition of Darren Hurst, M.D.; and**
- Exhibit 9: Excerpts of 7/24/17 Deposition of Derek Muehrcke, M.D.**

**REDACTED DOCUMENTS  
RELATED TO DOCKET 7948**

**EXHIBIT 1**

**FILED REDACTED**

[illegible][illegible]

Date	Progress Notes
<div data-bbox="126 212 277 285" data-label="Text"><p>[REDACTED]</p></div>	<div data-bbox="407 191 1588 800" data-label="Text"><p>[REDACTED]</p></div>

[REDACTED]

[REDACTED]

**REDACTED DOCUMENTS  
RELATED TO DOCKET 7948**

**EXHIBIT 2**

**FILED REDACTED**

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF ARIZONA

3  
4  
5 IN RE: BARD IVC FILTERS ) Case No.  
6 PRODUCTS LIABILITY ) MD-15-02641-PHX-DGC  
7 LITIGATION )  
8 )

9 DO NOT DISCLOSE  
10 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

11  
12 VIDEOTAPED DEPOSITION OF [REDACTED].  
13 April 3, 2017  
14 Lincoln, Nebraska  
15 1:55 p.m.

16 Reported by: Lori J. McGowan, RDR, CRR  
17  
18  
19

20 GOLKOW TECHNOLOGIES, INC.  
21 877.370.3377 ph | 917.591.5672 fax  
22 deps@golkow.com  
23  
24

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12

Q. Okay.

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A.

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Q.

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[REDACTED]

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[REDACTED]

23

MS. HELM: Object to the form.

24

A.

[REDACTED]



1

[REDACTED]

2

Q. (BY MR. MARTIN) Yes, sir.

3

A. [REDACTED]

4

[REDACTED]

5

[REDACTED]

6

[REDACTED]

7

A. Uh-huh.

8

Q. -- [REDACTED]

9

[REDACTED]

10

A. Uh-huh.

11

Q. -- what did you mean by that statement?

12

A. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

**REDACTED DOCUMENTS  
RELATED TO DOCKET 7948**

**EXHIBIT 3**

**FILED REDACTED**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

IN RE: BARD IVC FILTERS            NO. MD-15-02641-PHX-DGC  
PRODUCTS LIABILITY  
LITIGATION.

VIDEOTAPE DEPOSITION OF CAROL KRUSE, taken  
before Mary Lou Harmon, RPR, CRR, CSR(IA), General  
Notary Public within and for the State of Nebraska,  
beginning at 12:58 p.m., on the 20th day of  
February, 2017, at The Lincoln Marriott Cornhusker  
Hotel, 333 South 13th Street, Lincoln, Nebraska.

1     sometime this year?

2           A.     If not this year, real close to the end of  
3     last year, yes.

4           Q.     Before that conversation with your  
5     daughter, had you spoken with your daughter about  
6     your lawsuit against Bard regarding your IVC filter?

7           A.     The only thing I had visited with her  
8     about was way back when I, you know, called a number  
9     that was on TV that said if you've had, you know, a  
10    clot filter put in, call this number.

11          Q.     So you saw that TV advertisement, and you  
12    spoke -- you then spoke with your daughter?

13          A.     I'm sure I didn't call her that day, you  
14    know.

15          Q.     But near that time you spoke with your  
16    daughter about --

17          A.     Yes.

18          Q.     -- the advertisement you saw?

19          A.     Yes.

20          Q.     In any of the -- strike that.

21                 With the discussion you had with your  
22    daughter recently about the fact that she was going  
23    to be deposed and you were going to be deposed, did  
24    you at any point talk with her about the questions  
25    that you might get asked?

1 after you got the box?

2 A. Probably.

3 Q. And you filed your lawsuit on April 6,  
4 2015; right? Does that sound right?

5 A. I don't know.

6 Q. Okay. Let's go back to Page-- to  
7 Exhibit 5 for a moment, please.

8 And if you would look at Page 5, please.

9 At the top on question No. 14, it asks,  
10 "Before contacting an attorney regarding this  
11 lawsuit or claim, had you ever seen a television or  
12 print advertisement regarding possible claims  
13 against Inferior Vena Cava Filter manufacturers,"  
14 and you marked "yes."

15 A. Yes, uh-huh.

16 Q. Read for me the response. It asks for the  
17 approximate date and nature of the advertisement.  
18 What is your response there?

19 A. "I remember seeing the ad on TV about  
20 people having IVC filters, and there was a telephone  
21 number to call."

22 As far as approximate date, it would have  
23 to be maybe 2010, 2009, somewhere in there.

24 Q. Do you know approximately between the time  
25 that you saw the TV advertisement and when you

1 are not going to discuss any communications you had  
2 with him or any letters or what was the content of  
3 any of those letters. That's attorney/client  
4 privilege.

5 I just wanted to make sure we're talking  
6 about what I thought we were talking about.

7 MR. NASH: And I didn't know. I  
8 certainly don't want to --

9 MR. ARBON: I'm not saying you did  
10 anything wrong. Until we established where we were  
11 headed with that, I didn't want to interject, but  
12 now I'm interjecting.

13 BY MR. NASH:

14 Q. And, Ms. Kruse, let me make sure it's  
15 clear.

16 When I ask a question about anyone you've  
17 talked with, if you've talked with an attorney, I'm  
18 not interested -- well, I am interested, but I don't  
19 want you to answer that.

20 A. Right. I did not actually talk to him. I  
21 did not actually talk to anybody there. All I got  
22 was letters.

23 Q. Do you remember seeing that TV  
24 advertisement before you had your procedure to  
25 remove your filter?

1           A.     Yes.

2           Q.     Do you remember the content or substance  
3 of that TV advertisement?

4           A.     It was just a general -- you know, didn't  
5 have any pictures or anything like that. Just, you  
6 know, if you've had an IVC filter placed and have  
7 had, you know, problems, please call this number.

8           Q.     I'm going to mark -- or ask you to mark  
9 for Exhibit 7, please.

10                               (Exhibit No. 7  
11                               marked for identification.)

12                       MR. NASH: Tom, this is just the  
13 notice or amended notice.

14 BY MR. NASH:

15           Q.     Ms. Kruse, I've -- you've been handed  
16 Exhibit No. 7, and it -- if you read the title, it  
17 says, "Amended Notice of Videotape Deposition Duces  
18 Tecum of Carol Kruse."

19                       Do you see that?

20           A.     No, I do not.

21           Q.     I'm sorry, flip to the first page of  
22 what -- I'm sorry.

23           A.     I was going to say, "No, I don't see  
24 that."

25           Q.     You are on the first page.

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A. Yes.

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Q.

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A. Correct.

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Q.

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1           A.     Evidently, yes.

2           Q.     [REDACTED]

3     [REDACTED]

4     [REDACTED]

5     [REDACTED]

6     [REDACTED]

7                     MR. ARBON:  Objection.  Form.

8                     THE WITNESS:  [REDACTED]

9     [REDACTED]

10    BY MR. NASH:

11           Q.     [REDACTED]

12     [REDACTED]

13     [REDACTED]

14           A.     Yes.

15           Q.     [REDACTED]

16     [REDACTED]

17     [REDACTED]

18     [REDACTED]

19           A.     Yes.

20           Q.     [REDACTED]

21     [REDACTED]

22           A.     Yes.

23           Q.     [REDACTED]

24     [REDACTED]

25                     MR. ARBON:  Go ahead.

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A.

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Q.

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(Exhibit No. 12

23

marked for identification.)

24

MR. NASH: Tom, this is 12.

25

1 [REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

5 BY MR. NASH:

6 Q. [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

9 A. Okay.

10 Q. [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

15 Q. [REDACTED]

[REDACTED] [REDACTED]

17 A. Yes.

18 Q. [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

22 MR. ARBON: Objection to form.

23 THE WITNESS: [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

1 [REDACTED]

2 BY MR. NASH:

3 Q. Understood. [REDACTED]

4 [REDACTED]

5 A. Yes.

6 Q. [REDACTED]

7 [REDACTED]

8 A. [REDACTED], yes.

9 Q. [REDACTED]

10 [REDACTED]

11 A. Yes. [REDACTED]

12 [REDACTED]

13 Q. [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 A. Yes.

18 Q. [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 Q. [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED] [REDACTED] [REDACTED]

25 [REDACTED]

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[REDACTED]

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[REDACTED]

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[REDACTED]

17

A. No, I do not know.

18

Q.

[REDACTED]

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[REDACTED]

█

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[REDACTED]

█

[REDACTED]

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[REDACTED]

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[REDACTED]

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[REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED].

7 (Exhibit No. 15

8 marked for identification.)

9 BY MR. NASH:

10 Q. Ms. Kruse, you've been handed Exhibit 15.

11 [REDACTED]

12 [REDACTED]

13 A. Yes.

14 Q. And do you see at the bottom your name is  
15 there, "Carol Kruse"?

16 A. Yes.

17 Q. [REDACTED]

18 A. Yes.

19 Q. In the top corner?

20 A. Yes.

21 Q. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1     texted anyone else or at any other time sent a text  
2     message about your IVC filter?

3           A.     If I did, it would have been Diane, my  
4     daughter, you know.

5           Q.     But you don't have any recollection as you  
6     sit here today of any such text messages about your  
7     IVC filter?

8           A.     No.   In fact, when I texted her, I said  
9     come a little bit early and we'll chat while we have  
10    time before the filter deposition.  So is that about  
11    the filter, not really, but it sort of is, kind of.

12          Q.     Ms. Kruse, have you ever been convicted or  
13    pled guilty to any felony or crime of fraud or  
14    dishonesty?

15          A.     No.

16          Q.     Have you ever been arrested for a crime --  
17    for a felony or a crime of fraud or dishonesty?

18          A.     No.

19          Q.     Do you keep a journal?

20          A.     No.

21          Q.     Do you keep a diary?

22          A.     No.

23          Q.     Do you have any place where you like to  
24    write down your thoughts?

25          A.     No.

1 Q. Have you ever spoken to anyone at C.R.  
2 Bard or Bard Peripheral Vascular?

3 A. No.

4 (Exhibit No. 16  
5 marked for identification.)

6 MR. NASH: This is 16.

7 BY MR. NASH:

8 Q. Ms. Kruse, I've handed you Exhibit 16.

9 A. Yes.

10 Q. Do you recognize this document?

11 A. Yes.

12 Q. I just want to confirm, this is you at the  
13 top, Carol D. Kruse; correct?

14 A. Correct.

15 Q. Dated February 5, 2013?

16 A. Yes.

17 Q. Is this a -- appear to you to be a true  
18 and correct copy of the bankruptcy petition that was  
19 filed on your behalf back in 2013?

20 A. Yes.

21 (Exhibit No. 17  
22 marked for identification.)

23 BY MR. NASH:

24 Q. And, Ms. Kruse, you've been handed Exhibit  
25 No. 17. Do you recognize this document?



1           A.     Yes.

2           Q.     At the top it's dated -- filed June 6 --  
3 I'm sorry, June 3rd, 2013. Do you see that?

4           A.     Yes.

5           Q.     And you see it says, "Discharge of  
6 debtor"?

7           A.     Yes.

8           Q.     Do you understand -- I'm sorry, strike  
9 that.

10                   Towards the top you see where your name is  
11 listed, "Carol D. Kruse"?

12           A.     Yes.

13           Q.     Do you understand this document to be a  
14 true and correct copy of the discharge order related  
15 to the bankruptcy filing we just looked at?

16           A.     Yes.

17                   MR. NASH: I don't have any further  
18 questions.

19                   CROSS-EXAMINATION

20 BY MR. ARBON:

21           Q.     Let me ask you a quick question.

22                   You just said have you ever contacted  
23 Bard, counsel asked you that.

24           A.     Right.

25           Q.     Just to be clear, have you ever had any

1 reason to believe you've met anyone from Bard?

2 A. No.

3 Q. Or been introduced to anyone from Bard?

4 COURT REPORTER: Excuse me, ma'am,  
5 you need to answer out loud.

6 THE WITNESS: No.

7 BY MR. ARBON:

8 Q. [REDACTED]

[REDACTED]

[REDACTED]

11 A. There was --

12 MR. NASH: Objection. Leading.

13 THE WITNESS: -- a person that

14 [REDACTED] introduced me to. And it's my

15 recollection that he was a representative from Bard.

16 I do not know his name. I do not know what he

17 looked like, because I was under the, you know, blue

18 drape. I could hear him and [REDACTED] visiting.

19 BY MR. ARBON:

20 Q. So when you talked about [REDACTED]  
21 visiting with someone about -- I think you said,  
22 "let's try a different size"?

23 A. Yes.

24 Q. Was it your belief or understanding that  
25 was someone from Bard?

1           A.     Yes.   I'm assuming it was the same person  
2     that, you know, he said we also have this person in  
3     the room and he's a representative of Bard -- or  
4     representative from the [REDACTED] or  
5     something like that.

6                   MR. ARBON:   I'm wondering -- I didn't  
7     write down page and line, I apologize.   Can you go  
8     to -- if I give you a time reference, can you find  
9     it?

10                   COURT REPORTER:   Do you want to go  
11    off the record?

12                   MR. ARBON:   Yeah, let's go off the  
13    record.

14                   VIDEOGRAPHER:   Off the record at  
15    6 p.m.

16                                   (Discussion off the record.)

17                   VIDEOGRAPHER:   Back on the record at  
18    6:02 p.m.

19    BY MR. ARBON:

20           Q.     We just took a quick break to look at a  
21    question and answer from the deposition.   And on the  
22    rough, it would have been Page 146, Lines 12 through  
23    22.   And it was back when you were discussing a  
24    conversation you had with [REDACTED]  
25    [REDACTED].

1 BY MR. ARBON:

2 Q. Did you know or have reason to know that  
3 that [REDACTED]?

4 A. No.

5 Q. When was the first time that you had any  
6 reason to believe your filter was -- there is  
7 anything wrong with your filter?

8 A. When the [REDACTED]  
[REDACTED]  
[REDACTED]

11 MR. ARBON: I'll reserve the rest of  
12 my questions.

13 MR. NASH: I have no further  
14 questions.

15 VIDEOGRAPHER: This is the end of  
16 media No. 4. End of deposition. Off the record at  
17 6:09 p.m.

18 MR. ARBON: We'll read and sign.

19 COURT REPORTER: (Requests transcript  
20 orders.)

21 MR. ARBON: An E-file with exhibits.

22 MR. NASH: E-Tran with exhibits.

23 (Whereupon, the deposition was  
24 concluded at 6:09 p.m.)

25 \*\* \*\* \*\* \*\* \*\*

**REDACTED DOCUMENTS  
RELATED TO DOCKET 7948**

**EXHIBIT 4**

**FILED REDACTED**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

IN RE: BARD IVC FILTERS PRODUCTS  
LIABILITY LITIGATION

No. 2:15-md-02641-DGC

This Document Relates to:

**DECLARATION OF CAROL D. KRUSE**

No. 2:15-cv-01634-DGC

CAROL KRUSE

v.

C.R. BARD, INC. AND BARD  
PERIPHERAL VASCULAR, INC

My name is Carol Kruse. I am over the age of 19 and competent to make this declaration.

I have personal knowledge of the facts stated herein.

I was first implanted with a Bard G2 IVC filter on July 8, 2009. The filter was placed by Shanon Smith, M.D.

On the day the filter was implanted and prior to undergoing the procedure to implant the IVC filter, I signed a consent form that listed the general risks attendant to any invasive surgical procedure. Prior the implantation of the Bard G2 filter, I was not informed of any risks that were specific to the IVC filter itself.

On July 8, 2009, prior to having the filter implanted, the only thing that Dr. Smith said about the filter was that it was a removable device and could be retrieved if and when I wanted it taken out. I was never informed that there were any time limits by which the filter should be removed or that the risks of the filter migrating, tilting, perforating the wall of the vena cava, becoming embedded, or fracturing increased the longer the filter remained implanted in my

body. I was not informed that there was any risk of caudal migration of the filter or that the filter could tilt, perforate my vena cava, or fracture. Had I been told that the Bard G2 filter had a higher risk of caudal migration than other IVC filters or that filter presented higher risk of perforating my inferior vena cava than other filters, I would have asked that [REDACTED]

[REDACTED] without placement of an IVC filter.

In 2009 or 2010, I saw an advertisement on TV that mentioned some people who had been implanted with IVC filters might have a claim against the manufacturer. I called the number from the television advertisement, not because I was experiencing pain or suspected that I was having any problems with my filter, but simply because I knew I had an IVC filter, and because this commercial encouraged people who had an IVC filter to call for more information. I just wanted to know what the commercial was all about. The person I spoke with took my name and number, but several years passed before I was actually informed that a claim might exist. That information came from an attorney named Russell Button with the Law Offices of Ben C. Martin. My first contact with that law firm occurred in July 2013. It would be more than a year later before I was informed that my case had been investigated and that a claim was going to be made on my behalf.

In late 2010 to early 2011, I recall having a conversation with [REDACTED]  
[REDACTED]  
[REDACTED] When I mentioned that I still had the Bard G2 IVC filter implanted, [REDACTED]. My reason for scheduling the removal procedure was not because I knew or believed at that time that the filter was causing any [REDACTED] but simply because it had been brought to my attention that the

filter was no longer needed and it was a convenient time for me to have the procedure. I then spoke with Dr. Smith by telephone about scheduling the removal of the filter and he set the retrieval for April 7, 2011.

I underwent a [REDACTED]

[REDACTED]  
[REDACTED] but I did not know, or even suspect, that the IVC filter had tilted, migrated, perforated my IVC, or fractured. [REDACTED] I thought the filter was no longer needed and because April 2011 was a convenient time for me to have the procedure [REDACTED]  
[REDACTED]  
[REDACTED]

The first time that I knew or had a reasonable basis for knowing that the Bard G2 filter implanted in my body had caused any injury was after Dr. Smith attempted to remove the filter on April 7, 2011. Prior to April 7, 2011, I did not know that the filter had migrated downward in my inferior vena cava, that the filter was tilted, that the filter may have fractured, or that I had suffered any injury or damage to my inferior vena cava.

Approximately two years after this failed filter retrieval attempt, I filed for Chapter 7 bankruptcy. At the time the bankruptcy proceeding began in February of 2013 and continuing until the proceedings were closed by an order entered in June 2013, I was not aware and had not been told that I had any valid claim against any person or company arising from the implantation of the Bard G2 filter in my body. I did not know that I had a legal right to make claim against any person or company with regard to the Bard G2 filter until after my bankruptcy had been closed in June 2013. I did not know there was even a potential claim that deserved further



investigation until I spoke with Russell Button in July 2013. I most certainly did not intend to conceal any unliquidated claims which were unknown to me during the period the bankruptcy was pending, and I had no motive to do so. I was simply not aware that my right to pursue such a claim existed during that time period.

I have requested that the bankruptcy proceeding be reopened so that the trustee can evaluate whether the existence of this claim has any effect on the result.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed on: 9-27-2017

Carol D. Kruse  
Carol D. Kruse

**REDACTED DOCUMENTS  
RELATED TO DOCKET 7948**

**EXHIBIT 5**

**FILED REDACTED**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

IN RE: BARD IVC FILTERS            NO. MD-15-02641-PHX-DGC  
PRODUCTS LIABILITY  
LITIGATION.

VIDEOTAPE DEPOSITION OF DIANE BIERE, taken  
before Mary Lou Harmon, RPR, CRR, CSR(IA), General  
Notary Public within and for the State of Nebraska,  
beginning at 9:54 a.m., on the 20th day of February,  
2017, at The Lincoln Marriott Cornhusker Hotel, 333  
South 13th Street, Lincoln, Nebraska.

1 what you're asking?

2 Q. Yes, ma'am.

3 A. She may have mentioned something, but it  
4 wasn't -- it wasn't anything that was, like, a red  
5 flag or anything. It was --

6 Q. Let me ask very generally.

7

8 [REDACTED]?

9 And just to be clear, I'm not asking just  
10 sort of how you're doing today, but about any  
11 specifics --

12 A. [REDACTED]

13 Q. -- [REDACTED]

14 A. She will -- when I ask, she will give me  
15 updates. She's a very private person, so a lot of  
16 times I don't know if I hear everything.

17 Q. How frequently do you ask?

18 A. Oh, when we talk on the phone, we'll talk  
19 about it, or when she says, "I'm going to go to the  
20 doctor," I will say, "Well, tell me how that was,  
21 or, you know, tell me what they say," things like  
22 that.

23 Q. Would you say you have conversations like  
24 that on a weekly basis?

25 A. No, I wouldn't say that much.

1 Q. Would you say you have those kind of  
2 conversations on a monthly basis?

3 A. Maybe once a month.

4 Q. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]?

8 Strike that.

9 [REDACTED]  
[REDACTED]?

11 A. [REDACTED]?

12 Q. [REDACTED].

13 A. [REDACTED] [REDACTED]?

14 Q. [REDACTED]

15 A. I don't -- I don't think -- I don't think  
16 [REDACTED].

17 Q. [REDACTED]  
[REDACTED]  
[REDACTED]

20 A. [REDACTED].

21 Q. [REDACTED]

22 A. No.

23 Q. [REDACTED]  
[REDACTED]

25 MR. ARBON: Objection to form.

**REDACTED DOCUMENTS  
RELATED TO DOCKET 7948**

**EXHIBIT 6**

**FILED REDACTED**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

IN RE: Bard IVC Filters Products  
Liability Litigation,

---

No. 2:15-MD-02641-DGC

**EXPERT REPORT OF CHRISTOPHER S MORRIS, MD**

**Carol Kruse**



Bard IVC Filter Litigation Expert Report

Carol D. Kruse

Christopher S. Morris, MD

**Personal Background and Experience**

I am an Interventional Radiologist with over 25 years of clinical experience at a busy tertiary care referral center. This includes the placement and retrieval of inferior vena cava filters (IVCFs), as well as the care and management of patients with IVCFs. I graduated from Case Western Reserve University School of Medicine in 1985 and completed an Internship in Internal Medicine at Cleveland Metropolitan General Hospital. My residency in Diagnostic Radiology was obtained at the Ohio State University Hospitals from 1986 to 1990 and my fellowship in Vascular and Interventional Radiology was obtained at the Massachusetts General Hospital from 1990 to 1991. My residency and fellowship were heavily weighted towards IVCFs. I trained with leaders in the field, including some of the first Interventional Radiologists, Drs. Van Aman and Stockum, to place Greenfield IVCFs percutaneously, which revolutionized the practice of IVCF insertion more than 30 years ago. Ohio State University Hospitals has a long tradition of innovation in Interventional Radiology, which stimulated my interest in this specialty. Drs. Van Aman and Stockum were trained by Dr. William Molnar, a Grandfather of Interventional Radiology who was instrumental in developing the technique of coronary and cardiac angiography, as well as long term percutaneous biliary drainage. A Founding Fellow of the Society of Cardiovascular and Interventional Radiology, Dr. Molnar was an emeritus Professor of Radiology who taught me during the early part of my residency. At Massachusetts General Hospital, I trained with Drs. Waltman and Athanasoulis, who are also distinguished Interventional Radiologists and experts in the field of IVCFs.

I serve as a Professor of Radiology and Surgery at the Robert Larner, MD College of Medicine at the University of Vermont, and teach residents, fellows, and medical students about IVCFs, including indications, contraindications, risks, and complications of IVCFs, as well as alternative therapies for venous thromboembolic disease. During this timeframe, I have taught and mentored more than 100 residents in Diagnostic Radiology as they rotated on the Interventional Radiology service, in addition to 28 fellows in Interventional Radiology, who worked closely with me on a daily basis. I co-founded the Fellowship in Interventional Radiology at the University of Vermont in 1994. I have served as the Program Director for the Diagnostic Radiology Residency, Program Director of the Fellowship in Interventional Radiology, and the Division Director of Interventional Radiology at the University of Vermont Medical Center (formerly Fletcher Allen Health Care, formerly Medical Center Hospital of Vermont).

I also taught Interventional Radiology colleagues about IVCs as a member of the IVCF Workshop series during the annual national meeting of the Society of Interventional Radiology for five years, during the introduction of optional IVCs in the United States. I was the chair of this Workshop series for three years.

Over my career at the University of Vermont, I have been part of a small team of full time Interventional Radiologists, and have performed a large variety of vascular and non-vascular procedures that embodies the gamut of Interventional Radiology. Our practice has always been a blend of clinical Interventional Radiology and academics. I have focused on building a busy and well-respected Interventional Radiology service and have strived to become the best versatile and well-rounded, full time clinical Interventional Radiologist possible. Throughout my 25-year career at the University of Vermont, I have continuously participated in frequent emergency call duties at a busy Level I Trauma Center, ranging from every other week to every fourth week in frequency. I have introduced or co-introduced innumerable vascular and non-vascular Interventional Radiology procedures to the state of Vermont, and still perform many neurointerventional, aortic endografting, and peripheral vascular interventions. We serve as the only tertiary care referral center for the entire state of Vermont and much of the Adirondack region of the state of New York. My electronic teaching collection, consisting of around 3,000 interesting procedures that I have personally performed, is a testament to my clinical Interventional Radiology experience. I estimate that I have placed more than 800 IVCs and have retrieved many IVCs since the advent of optional IVCs in the U.S., around 15 years ago.

I also received a Master of Science degree from the Ohio State University Graduate School in 1990, with a concentration in radiation physics and radiobiology. I am a Fellow of the Society of Interventional Radiology and a Fellow of the American College of Radiology. In addition, I am a member of many medical societies and organizations. I am a diplomat of the American Board of Radiology in Vascular and Interventional Radiology, a subspecialty of Diagnostic Radiology, and hold certificate no. 34386.

In the past four years, I have testified as an expert witness in one case, Matthew Collins, MD and Jillian Collins v. Dartmouth Hitchcock Medical Center and Hitchcock Clinic, Inc.

My hourly rate is \$500 per hour.

I have previously provided reports in this litigation dated March 16, 2017, and April 13, 2017, which I fully incorporate into this report.

## Opinions Regarding Carol D. Kruse

Carol D. Kruse

[REDACTED]

[REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]

[REDACTED]

Age Group	Percentage
18-29	95%
30-49	95%
50-69	95%
70+	95%
Total	95%

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Imaging

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

#### Critique of Expert Report Darren R. Hurst, MD

I have had the opportunity to review the Expert Report of Darren R. Hurst, MD. I disagree with many of his opinions, and wish to elaborate on some of his statements. If I do not discuss any particular opinion of Dr. Hurst, that does not indicate that I agree with it.

[REDACTED]

In section 4c, Dr. Hurst has copied the American Medical Association Code of Medical Ethics on informed consent. [REDACTED]

In paragraph 4dii, Dr. Hurst states that Bard's own internal risk analysis deemed the G2 filter to pose an "unacceptable risk" of caudal migration. Some investigators have hypothesized that caudal migration of an IVCF predisposes it to perforation of the inferior vena caval wall and fracture. This may not be true, for several reasons. Many IVCFs perforate the inferior vena caval wall and fracture, without any migration at all. Fractures can occur without inferior vena caval wall perforation and perforation can

occur without fracture. As long as the IVCF is above the iliac vein confluence, which is the case with Ms. Kruse's IVCF, and if it has not tilted to a significant degree, there is no reason to believe that an IVCF that has migrated caudally should function any less well than an IVCF that has not migrated. Cantwell and colleagues retrospectively compared Bard Recovery and G2 filters during the retrieval procedure (3). 67 Recovery and 60 G2 IVCFs were evaluated at a mean of 592 and 396 days, respectively. The fracture rates of the Recovery and G2 IVCFs were 9% and 0%, respectively. Binkert, et al., in a multicenter prospective study of the retrieval of 100 Bard G2 IVCFs showed one fracture in the 85 patients that were completely studied, although there was a 12% caudal migration rate of greater than 2 cm (4). Of note, like most caudal migrations, these were asymptomatic. Mistunaga and Yoon performed a retrospective evaluation of all IVCFs placed at a single institution over a 10-year period. At a mean implantation to image time of 19.0 months, the 57 Bard G2 and G2X IVCFs had a fracture and/or embolization rate of 0% (5). In general, caudal migration, per se, is not a significant complication of an IVCF.

In paragraph 4ei2, Dr. Hurst [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

In paragraph 4ei3, Dr. Hurst [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

In paragraph 4ei4, Dr. Hurst states [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

In paragraph 4ei6, Dr. Hurst [REDACTED]  
[REDACTED]

All IVCFs can fracture. If the fractured fragment is not contained within the wall of the IVCF, it can embolize to the chest, and rest within the right side of the heart, or within the pulmonary artery distribution. The chance that an embolized IVCF fractured



fragment causing significant injury or death, even those residing within the right ventricle of the heart, or the pulmonary artery, is very rare (9-11). [REDACTED]

#### **Critique of Expert Report of Derek D. Muehrcke, MD**

I have had the opportunity to review the Expert Report of Derek D. Muehrcke, MD. I disagree with many of his opinions, and wish to elaborate on some of his statements. If I do not discuss any particular opinion of Dr. Muehrcke, then it should not imply that I agree with it.

Dr. Muehrcke [REDACTED]

In his Case Specific Opinions Regarding Carol Kruse, [REDACTED]

[REDACTED]

I am not a surgeon, [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Summary of Opinions Regarding Carol D. Kruse

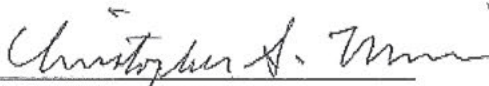
1. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
2. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
3. [REDACTED]  
[REDACTED]
4. [REDACTED]  
[REDACTED]
5. [REDACTED]  
[REDACTED]  
[REDACTED]
6. [REDACTED]  
[REDACTED]
7. [REDACTED]  
[REDACTED]
8. [REDACTED]  
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[REDACTED]  
[REDACTED]
9. [REDACTED]  
[REDACTED]  
[REDACTED]
10. [REDACTED]  
[REDACTED]

11. [REDACTED]  
[REDACTED]  
[REDACTED]

12. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

My opinions are based on the medical records that I have reviewed, my training and experience as an interventional radiologist, and the medical literature cited in my reference list and in my previous reports in this litigation. I hold these opinions to a reasonable degree of medical and scientific certainty. I have evaluated and formed opinions on the issues involved in this case in the same manner that I would have evaluated and treated my own patient. I reserve the right to add to or change my opinions if additional information becomes available to me.

Dated: June 29, 2017

  
Christopher S. Morris

## References

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**REDACTED DOCUMENTS  
RELATED TO DOCKET 7948**

**EXHIBIT 7**

**FILED REDACTED**

Do Not Disclose - Subject to Further Confidentiality Review

Page 1

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF ARIZONA

\* \* \* \* \*

In Re BARD IVC FILTERS PRODUCTS  
LIABILITY LITIGATION

No. MD-15-02641-PHX-DGC

\* \* \* \* \*

and

\* \* \* \* \*

CAROL KRUSE )MDL No. 2641

)

Plaintiff, )

)

vs. )

)

C.R. BARD AND BARD )

PERIPHERAL VASCULAR, INC., )

)

Defendant.)

\* \* \* \* \*

DO NOT DISCLOSE - SUBJECT TO FURTHER  
CONFIDENTIALITY REVIEW

VIDEOTAPED DEPOSITION OF: SHANON SMITH, M.D.

DATE: April 4, 2017

TIME: 2:00 p.m.

PLACE: Mary Lanning Memorial Hospital, 15 North St.  
Joseph Avenue, Hastings, Nebraska

Do Not Disclose - Subject to Further Confidentiality Review

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1 Q. (BY MR. ARBON) So as a doctor do you think it  
2 would be appropriate for the manufacturer to use  
3 patients as beta test grounds for the products?

4 MS. HELM: Object to the form.  
5 It's argumentative.

6 A. I would expect it to be a safe product and that  
7 they would know -- they would know the anatomy and it  
8 would function like it's -- should. I mean, I assume  
9 they went through clinical trials with test patients  
10 as well, I would assume that's the process.

11 Q. (BY MR. ARBON) If there were no clinical trials  
12 to establish the long-term safety and efficacy of  
13 the -- their optional filters, would that be  
14 information that you as a physician would like to  
15 know when you're making a decision as to whether to  
16 use the product or not?

17 A. I think I remember you mentioned that, that  
18 they -- they used other data from a different filter.  
19 I would -- I would rely on that, that it's safe if  
20 it's on the market.

21 Q. But you -- but if you were told -- if you had  
22 available to you information that demonst -- that No.  
23 1, that long-term clinical trials had not been  
24 performed to establish the long-term safety and  
25 efficacy of the filter system, is that information



1       you would like to have?

2                               MS. HELM: Object to the form.

3       A.    I would -- as much information as how dangerous  
4       a product is, that would be good to have.

5       Q.    (BY MR. ARBON) All right.

6               (Exhibit No. 2112, marked for identification.)

7       Q.    Hand you what I've marked now as Exhibit 2112 to  
8       your deposition. Which begins with the Bates No.  
9       BPVE010101982, a health hazard evaluation from  
10       December 17th, of 2004.

11            Again, I'll tell you this is a document that  
12       Bard has produced to us in this litigation. And it  
13       relates to the Recovery filter. And again, that  
14       Recovery filter is the filter that was used as the  
15       predicate for the G2.

16            If you look at Page 2, Doctor, the first  
17       paragraph under 2A. There's a statement that,  
18       "Reports of death, filter migration, movement, IVC  
19       perforation and filter fracture associated with  
20       Recovery filter we're seeing in the MAUDE database,  
21       at reporting rates that were 4.6, 4.4, 4.1 and 5.3  
22       higher respectively than the reporting rates for all  
23       other filters."

24            Is that the type of information that you as a  
25       physician would like to know and have available to

Do Not Disclose - Subject to Further Confidentiality Review

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1       you when you're making a risk benefit analysis as to  
2       which filter you would like to place in one of your  
3       patients?

4                       MS. HELM: Object to the form.

5       A.     The more information about the risks and the  
6       higher risk, if this statement is true, that would be  
7       helpful.

8       Q.     (BY MR. ARBON) And if you had been told that the  
9       G -- or a Recovery filter in this case, had -- was  
10      associated with reported deaths at a rate of 4.6  
11      higher than the other filters, would you think you  
12      would want to use that filter or another filter?

13                    MS. HELM: Object to the form.

14      A.     You would have to decide which filter, yes, you  
15      would want to use, Recovery or G2 if this is based on  
16      Recovery data.

17      Q.     (BY MR. ARBON) Okay. And if you were told that  
18      the data held by Bard indicated that the Recovery  
19      filter was more prone to perforate, fracture, migrate  
20      than other filters, is that information you would  
21      like to have had available to you when making your  
22      determination as to what filters to utilize?

23                    MS. HELM: Object to the form.

24      A.     As much information on the safety of the product  
25      and the patient would be helpful.

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1 Q. (BY MR. ARBON) And in doing a true risk benefit  
2 analysis, your ability to perform a risk benefit  
3 analysis is based upon the information available to  
4 you; is that correct?

5 A. That's correct.

6 Q. So if manufacturers have information that would  
7 directly effect or could have a direct effect on a  
8 risk benefit analysis, did you as a physician using  
9 Bard products have an expectation that Bard would  
10 make that information available to you?

11 MS. HELM: Object to the form.

12 A. I would expect that Bard would produce a safe  
13 filter and if there were problems, they would notify  
14 the physician.

15 Q. (BY MR. ARBON) That seems reasonable to you as a  
16 physician?

17 MS. HELM: Object to the form.

18 Move --

19 Q. (BY MR. ARBON) Is that a reasonable thing to a  
20 physician to expect?

21 A. I would -- I would think so.

22 (Exhibit No. 2113, marked for identification.)

23 Q. Hand you what's been marked as 211 -- Exhibit  
24 2113 to your deposition. It is a Bard document  
25 beginning with Bates No. BPVE0101752806; do you see

1       that document, sir?

2       A.     Yes.

3       Q.     If you would turn to Page 18.

4             (Witness complies.)

5       Q.     Are you familiar with trending studies, where  
6       you look for trends in products?

7       A.     Okay.

8       Q.     Okay.

9       A.     I'm not an expert.

10      Q.     All right. But you understand the concept of  
11     comparing products together to see if there are any  
12     trends that develop?

13      A.     That sounds reasonable.

14      Q.     Do you see where this is a G2 trend relative to  
15     the RNF? I will tell you RNF stands for the Recovery  
16     filter.

17      A.     Okay.

18      Q.     And you're familiar with the G2, you've been  
19     placing -- you've been putting them in, right?

20      A.     Correct.

21      Q.     Did Bard at any time let you know that the G2  
22     presented more caudal migration or caused more caudal  
23     migration than the Recovery filter?

24      A.     They never specifically told me those exact  
25     words.

1 Q. Did they ever discuss the degree of migration  
2 with you, their representatives?

3 A. It's difficult to recall. I know that filters  
4 have problems in general, but I don't recall any rep  
5 saying that this is -- this has more problems than  
6 another filter.

7 Q. All right. And as a physician that's being  
8 asked to use the G2 filter and put it in patient's  
9 bodies, would it be beneficial to you that if Bard  
10 had the data that demonstrated that caudal migration  
11 occurred 4.7 times more often with the G2 than with  
12 their Recovery filter; is that the type of  
13 information that would be beneficial to you in trying  
14 to decide if this is the best product for your  
15 patient?

16 MS. HELM: Object to the form.

17 A. More information's always better. If the --

18 Q. (BY MR. ARBON) Okay. And more information  
19 regarding an increased risk of caudal migration would  
20 have an impact on you, wouldn't it?

21 MS. HELM: Object to the form.

22 A. Possibly.

23 Q. (BY MR. ARBON) Okay. What is caudal migration?

24 A. Where the filter moves toward the, toward the --  
25 away from the heart.

1 Q. Down towards the feet?

2 A. Toward the -- correct.

3 Q. Okay. [REDACTED]

4 [REDACTED]

5 A. [REDACTED]

6 Q. Okay. Now, there's soufflot migration is on  
7 that list and what would that be --

8 A. Toward the head.

9 Q. And no difference in rate of soufflot migration  
10 between the Recovery and the G2 according to Bard's  
11 data, correct?

12 MS. HELM: Object to the form.

13 A. According to this chart.

14 Q. (BY MR. ARBON) And then tilt, what is tilt?

15 A. Where the filter leans toward the IVC wall.

16 Q. And according to the Bard data compiled in this  
17 chart, the G2 had more tilt than the Recovery; is  
18 that right?

19 MS. HELM: Object to the form.

20 A. According to this chart, the percentage is  
21 higher.

22 Q. (BY MR. ARBON) And perforation is what?

23 A. Perforation to me would mean that the limbs  
24 penetrate through the wall of the IVC.

25 Q. And what did Bard say about the G2 in comparison

1 to its Recovery filter with perforation?

2 A. That these percentages are higher. As a doctor  
3 I would want to know the number they're based on, but  
4 still, this number is higher.

5 Q. Well, and what I would like to talk to you about  
6 there, is: Doctor, is there a number that's  
7 acceptable to you?

8 A. Unfortunately there's not a absolute number,  
9 but --

10 Q. Yeah.

11 A. -- definitely would have to figure out the risk.

12 Q. So in figuring out the risk, wouldn't you look  
13 to something like this, the trend?

14 A. That data would be helpful.

15 Q. When you're trying to pick a product for a  
16 patient, an IVC filter for a patient that you're  
17 going to use, are you looking for the safest product  
18 available for your patient?

19 A. I think that would be true.

20 Q. So if a known data shows that there's a product  
21 such as the G2 that is proven to be, you know, over  
22 four times more likely to cause caudal migration or  
23 two times more likely to tilt and four times more  
24 likely to perforate than the predicate device it's  
25 based upon, the RNF, would that be valuable

1 information to you?

2 A. More information about the product is definitely  
3 better.

4 Q. Doctor, have you ever seen any of the  
5 advertising related to the G2 filters or their  
6 informational brochures?

7 A. Possibly.

8 (Exhibit No. 2114, marked for identification.)

9 Q. I'm going to kind of take a side trip. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

13 A. [REDACTED].

14 Q. [REDACTED]

[REDACTED]

16 A. [REDACTED]

17 Q. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



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1 filter had more of a tendency to cause complications  
2 than its -- than its Recovery filter?

3 MS. HELM: Object to the form.

4 A. Say that one more time.

5 Q. (BY MR. ARBON) Yeah. Does it surprise you to  
6 see that Bard had data that demonstrated the G2  
7 filter [REDACTED] had more --  
8 higher complication rate concerning migration, tilt  
9 and perforation, than its predecessor the Recovery  
10 filter?

11 MS. HELM: Object to the form.

12 A. I wouldn't have known what they had at the time.

13 Q. (BY MR. ARBON) And I'm not asking you about at  
14 the time, because I know you didn't have that  
15 information. You had no such information --

16 A. No.

17 Q. -- when you chose the G2, did you?

18 A. Right, correct.

19 Q. If you had that information when you were making  
20 decisions as to what to implant, do you know if you  
21 would have chosen that G2?

22 MS. HELM: Object to the form.

23 A. I would have definitely looked at the risk and  
24 benefits if there was more information.

25 Q. (BY MR. ARBON) And if Bard's data is correct

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1       that the G2 prevented a higher risk of migration, a  
2       higher risk of perforation and a higher risk of tilt,  
3       do you think you would have chosen that if that  
4       information would have been available to you?

5                       MS. HELM: Objection to the form.

6       A.    Now, you made a big claim, so I assume that  
7       claim is correct, you know, of these higher  
8       percentages. And that would be true in every case.  
9       So, assuming that's a correct statement, the -- yeah,  
10      I would want to know if one product had different  
11      numbers relative to another product.

12      Q.    (BY MR. ARBON) Well, specific to the G2 numbers  
13      that I've shown you. If, assume for me those that,  
14      that data that Bard gave us is accurate --

15      A.    Okay.

16      Q.    -- and you had that information back in --

17      A.    Right.

18      Q.    -- [REDACTED]

19      [REDACTED], would that type of data  
20      affected that decision?

21                       MS. HELM: Object to the form.

22      A.    I would have definitely used that information  
23      and whatever else to make a decision.

24      Q.    (BY MR. ARBON) Okay. And had you had the  
25      benefit of that information, you may have chosen a

1 device other than a G2; is that true?

2 MS. HELM: Object to the form.

3 A. It's possible.

4 Q. (BY MR. ARBON) Let's go to the implant, Doctor.

5 A. Because then I wouldn't be meeting with you.

6 MS. HELM: I got to move to strike  
7 that off the record.

8 THE WITNESS: That's fine. I'm  
9 not sure how to answer that.

10 (Discussion off the record.)

11 (Exhibit No. 2115, marked for identification.)

12 Q. (BY MR. ARBON) I'm going to hand you what I've  
13 marked as 2115, Doctor, and ask you if you recognize  
14 that document?

15 A. Yes, 2115.

16 Q. And is there a Bates number at the bottom of  
17 that page?

18 A. There's a number.

19 Q. Okay. Can you read that for me.

20 MS. HELM: You can just read --

21 A. 00288.

22 MS. HELM: That's fine.

23 Q. (BY MR. ARBON) Okay.

24 A. Okay.

25 Q. And do you recognize that document, sir?

1           responsiveness.

2       Q.     (BY MS. HELM) Have you seen commercials on  
3       television placed by plaintiff's attorneys  
4       advertising about IVC filters?

5                       MR. ARBON:  Objection to form.

6       A.     I have.

7       Q.     (BY MS. HELM) Do you have a filter?  If you have  
8       a filter, you might be entitled to compensation.  
9       Call this number.  Have you seen those kind of adds?

10      A.     I think I have.

11                    MR. ARBON:  Objection to form.

12      Q.     (BY MS. HELM) Okay.  Are you aware that dozens  
13      of Bard witnesses have had their depositions taken  
14      about Bard's documents and actions they took relating  
15      to their IVC filters?

16      A.     I don't know what's happened outside this room.

17      Q.     Okay.  Plaintiff's counsel didn't show you any  
18      of that testimony today, did he?

19      A.     I didn't -- I haven't seen anything other than  
20      what's presented so far.

21      Q.     Okay.  And when it comes to making decisions for  
22      your patients and weighing the risks and benefits of  
23      medical devices that you use with your patients, you  
24      rely on a number of sources, don't you?

25      A.     Yes.

1 Q. You rely on your training and experience?

2 MR. ARBON: Objection, form.

3 A. Yes.

4 Q. (BY MS. HELM) You rely on your colleague's  
5 experiences with certain products?

6 MR. ARBON: Objection, form.

7 A. Yes.

8 Q. (BY MS. HELM) You rely on available medical  
9 literature; is that right?

10 MR. ARBON: Objection, form.

11 A. I rely my decision based on multiple sources and  
12 journal articles is one.

13 Q. (BY MS. HELM) Okay. And you're not interested  
14 in getting unreliable information or data?

15 A. Not usually.

16 Q. Okay. Because getting unreliable information or  
17 data could adversely impact your risk benefit  
18 analysis; is that right?

19 A. Good data is the best data.

20 Q. And in making your treatment decisions for your  
21 patients, you don't rely on internal information from  
22 internal documents of manufacturers of medical  
23 devices, do you?

24 MR. ARBON: Objection, form.

25 A. That's not a common process.

1 do whatever is appropriate --

2 Q. (BY MS. HELM) Okay.

3 A. -- to figure out effectiveness and safety  
4 (sic).

5 Q. Are you familiar with what is called the 510K  
6 process for clearance of a product?

7 A. Not, not well.

8 Q. Okay. But are you familiar that there's a  
9 process where a product such as a Bard filter is  
10 cleared for use without going through randomized  
11 clinical studies.

12 A. I wouldn't know that.

13 Q. Okay. Do you rely on information from the FDA  
14 in making a risk benefit analysis to -- regarding  
15 products you're going to use with your patients?

16 A. Well --

17 MR. ARBON: Objection, form.

18 A. -- if medication has a black box FDA warning,  
19 that would affect my treatment and I'm assuming for  
20 other products as well.

21 Q. (BY MS. HELM) Okay. Is it fair to say that  
22 those first four exhibits that came from Bard were  
23 represented to you as Bard documents, you can't  
24 comment as to whether -- [REDACTED]

[REDACTED]

[REDACTED]

1

2

MR. ARBON: Objection, form.

3

A. Those are the first time I seen the documents.

4

I wouldn't want to say how they would influence me

5

without knowing what they say in detail.

6

Q. (BY MS. HELM) And the context in which they were  
created?

7

8

A. I'm sure my opinion would need to be based on a  
lot of things.

9

10

Q. Okay. Fair.

11

A. Sorry for being vague on that.

12

Q. No, that's quite all right. It's quite all  
right.

13

14

You would expect companies such as Bard to  
continue to assess their products by looking at  
complications and how the product's performing once  
it's in the market; would you not?

15

16

MR. ARBON: Objection, form.

17

A. I would assume there's some post market process.

18

Q. (BY MS. HELM) Okay. And would you also assume  
that Bard would undertake some sort of a formal  
process to evaluate those complications or events  
that occur once it's in the market?

19

20

MR. ARBON: Objection, form.

21

22

A. I wouldn't know what Bard would do in the normal

1 right?

2 MS. HELM: Object to the form.

3 A. I'm the doctor, correct.

4 Q. (BY MR. HELM) You as the doctor who is utilizing  
5 these instructions and utilized instructions like  
6 this for [REDACTED]

7 [REDACTED] are relying on this information to be  
8 accurate, correct?

9 MS. HELM: Object to the form.

10 A. The package insert should be correct.

11 Q. (BY MR. HELM) When there's a reference in the  
12 package insert that says, filter fracture is a known  
13 complication but most cases, however, have been  
14 reported without -- without any adverse clinical  
15 sequella; does that to you as a doctor give you some  
16 degree of severity that is being associated to  
17 fracture?

18 MS. HELM: Object to the form.

19 A. Fix -- I'm not an expert, but filter fracture  
20 sounds bad to me.

21 Q. (BY MR. ARBON) Okay. But if that's modified by  
22 saying the patient doesn't suffer any adverse  
23 sequella, does that have any affect on your view of  
24 that warning?

25 MS. HELM: Object to the form.



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1 Q. Okay. Now, this is a 2005 memorandum --  
2 December 23rd, 2005 memorandum?

3 A. December 27, 2005.

4 MS. HELM: The top.

5 A. At the top. If I read that -- well, no, it  
6 looks like it's some kind of forwarded -- there's  
7 multiple dates on this piece of paper.

8 Q. (BY MR. ARBON) Okay. December of 2005?

9 A. I don't -- 2005, that's -- it looks like it's  
10 made within the year 2005.

11 Q. And so what the purpose of showing this to you,  
12 Doctor, my question is: Has any Bard sales rep or  
13 anyone with Bard ever associated with told you that  
14 as early as December of 2005, they were concerned  
15 about the rate of caudal migration and tilt related  
16 to the G2 filter?

17 MS. HELM: Object to the form.

18 A. Don't recall any Bard representative telling me  
19 that in 2005 there were -- there was a company  
20 concern for tilting.

21 Q. (BY MR. ARBON) Do you recall how long your  
22 retrieval procedure lasted?

23 A. Long enough to decide not to retrieve it and  
24 come up with an alternate plan.

25 MS. HELM: Let me just -- I may

**REDACTED DOCUMENTS  
RELATED TO DOCKET 7948**

**EXHIBIT 8**

**FILED REDACTED**

UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

IN RE: BARD IVC FILTERS

PRODUCTS LIABILITY

NO. MD-15-20641-PHX-DC

LITIGATION.

Deposition of DARREN ROBERT HURST, M.D.,  
Witness herein, called by the Defendants for  
cross-examination pursuant to the Rules of Civil  
Procedure, taken before me, Lisa M. Conley  
Yungblut, a Notary Public within and for the State  
of Ohio, at the offices of Mike Mobley Reporting,  
312 Walnut Street, Suite 1600, Cincinnati, on  
Friday, the 21st of July, 2017, at 8:01 a.m.

1 A. Ms. Kruse, thank you.

2 THE WITNESS: Bless you.

3 MR. O'CONNOR: Bless you.

4 BY MR. NORTH:

5 Q. [REDACTED]

[REDACTED]

7 A. [REDACTED]

8 Q. [REDACTED]

[REDACTED]

10 A. [REDACTED].

11 Q. [REDACTED]

[REDACTED]

13 A. [REDACTED].

14 Q. [REDACTED]

[REDACTED]

16 A. [REDACTED].

17 Q. [REDACTED]

18 A. [REDACTED].

19 Q. [REDACTED]

[REDACTED]

21 MR. O'CONNOR: Are you looking at her  
22 report?

23 THE WITNESS: [REDACTED]

[REDACTED]

[REDACTED]

1 [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

11 BY MR. NORTH:

12 Q. [REDACTED]

13 A. Oh, [REDACTED]

[REDACTED]

15 Q. [REDACTED]

[REDACTED]

17 A. [REDACTED].

18 Q. [REDACTED]

[REDACTED]

20 A. [REDACTED].

21 Q. [REDACTED]

[REDACTED]

[REDACTED]

24 A. [REDACTED]

[REDACTED]

1 MR. O'CONNOR: Form.

2 BY MR. NORTH:

3 Q. [REDACTED]

4 [REDACTED]

5 A. Correct.

6 Q. [REDACTED]

7 [REDACTED]

8 A. No. [REDACTED]

9 [REDACTED]

11 Q. [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 A. I do.

15 Q. Do you think one of those or both of  
16 those?

17 A. I think both of them.

18 Q. [REDACTED]

19 A. [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 Q. Scientific answer.

25 A. Yeah. It's this, it's right here.

1 Q. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

7 MR. O'CONNOR: Form.

8 THE WITNESS: [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

12 BY MR. NORTH:

13 Q. Do you, yourself, specialize in  
14 complex retrievals?

15 A. I do complex retrievals, yes.

16 Q. Who do you consider the -- besides  
17 yourself, the leading practitioners in this area  
18 of complex retrievals?

19 A. I would say that you've actually  
20 already said who they are, Kuo, Lynch, Trerotola,  
21 they're kind of the leaders.

22 Q. [REDACTED]  
[REDACTED]  
[REDACTED]

25 MR. O'CONNOR: Objection, form.

**REDACTED DOCUMENTS  
RELATED TO DOCKET 7948**

**EXHIBIT 9**

**FILED REDACTED**



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

NO. MD-15-92641-PHX-DGC

In re Bard IVC Filters Products  
Liability Litigation

Videotaped Deposition of DEREK D. MUEHRCKE, M.D.,  
taken on behalf of defendant herein, pursuant to Notice  
of Taking Deposition, at 32 Avienda Menendez St., St.  
Augustine, St. Johns County, Florida, on July 24, 2017,  
at 9:00 a.m., before Terry T. Hurley, Registered  
Professional Reporter, and Notary Public in and for the  
State of Florida at Large.

1 wrong. [REDACTED]

2 [REDACTED].

3 Q Again, you've never spoken [REDACTED]

4 [REDACTED]

5 A No, sir.

6 Q And you've never seen his deposition, or read  
7 his deposition?

8 A Correct.

9 Q And [REDACTED];  
10 correct?

11 A That's correct.

12 Q And [REDACTED]?

13 A Correct.

14 Q [REDACTED]

[REDACTED]

[REDACTED]

17 A [REDACTED]

[REDACTED]

19 MR. O'CONNOR: Form.

20 A [REDACTED]

21 Q [REDACTED]

22 [REDACTED]

23 A I disagree. I mean, I know Dr. -- [REDACTED]

[REDACTED]

[REDACTED]

1

■

■

■

■

■

■

■

■

10

Q

■

■

■

■

15

A

Yes, sir.

16

Q

Do you have experience yourself in complex

17

filter retrieval?

18

A

The only thing -- no. The only thing I do is

19

I'll try and put a balloon in to move the cap away from

20

the wall, but I -- I don't have experience, no.

21

Q

Do you know whether Dr. Hurst has experience in

22

complex removal?

23

A

I don't know.

24

Q

■

1 Q You think the odds are more than 50 percent  
2 that [REDACTED]

3 A I think so.

4 Q And is that the reason that you believe that

5 [REDACTED]

6 [REDACTED]

7 A Yes, [REDACTED] [REDACTED]

8 [REDACTED].

9 Q [REDACTED]

10 [REDACTED].

11 A Yes, sir.

12 Q [REDACTED]

13 [REDACTED]

14 A I do not.

15 Q [REDACTED]

16 A I do not.

17 Q [REDACTED]

18 [REDACTED]

19 A Just like BARD's expert witness Dr. Morris, I

20 [REDACTED] [REDACTED]

21 [REDACTED] I agree with Dr. Morris.

22 Q [REDACTED]

23 [REDACTED]

24 A Well, I -- I don't know. I mean, I -- [REDACTED]

25 [REDACTED]

1 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] It's possible.

9 Q [REDACTED]

[REDACTED]

[REDACTED]

12 MR. O'CONNOR: Form and foundation.

13 A [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

18 Q [REDACTED]

[REDACTED]

20 A I [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1

[REDACTED]

2

Q

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

21

MR. NORTH: Who just joined?

22

(David DeGreeff rejoined the deposition.)

23

Q

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



1

█

█

█

5

Q Are patients who undergo a percutaneous -- a complex percutaneous removal exposed to risks because of that procedure?

8

A Oh, yes.

9

Q And what kind of complications and risks are they exposed to?

10

11

A Well, specifically the -- let's see which one it was.

12

13

█

█

█

17

But in general, there's a risk of injury to the inferior vena cava the more manipulations you have to do. To do a complex retrieval oftentimes they'll have to put a wire down by the tip of the filter and put a balloon in to try to pry it away from the wall in the vena cava. You can tear it then. Or else they'll grasp it with biopsy forceps to try to control the head and bring it into a larger side sheath. And those are all risks for injury when you take these filters out.

24

25